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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/025,282	12/19/2001	Mark W. Bleyer	3433-333	5918
75	90 09/09/2003			
Woodard, Emhardt, Naughton, Moriarty and McNett Bank One Center/Tower Suite 3700 111 Monument Circle Indianapolis, IN 46204-5137			EXAMINER	
			NGUYEN, DAVE TRONG	
			ART UNIT	PAPER NUMBER
			. 1632	
			DATE MAILED: 09/09/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Dave T Nguyen		·	Application No.	Applicant(s)				
Examin r   Dave T Nguyen   1632	Office Action Summary							
Dave T Nguyen								
The MALING DATE of this communication appears in the covir sheet with the correspondence address—Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extractions of the may be winder in control of the communication of the provided in control of the provided in the provided in the provided in the provided of the provided provided in the communication of the provided provided by the collect later than the maining date of the communication, even if timely filed, may reduce any section of the communication of the c								
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THE MAILING DATE OF THIS COMMUNICATION.  Estencions of sime may be suitable under the provisions of 37 CFR 1.13(a). In no event, however, may a reply be timely filed after SIX (b) MONITS from the mailing date of this communication.  **Pallure to reply is special above, the maximum statutory praid to all apply and will explain statution of thirty (30 days will be considered timely.  **Pallure to reply within the set or extended period for reply with its extraction with the set or extended period for reply by the provision of the continuation of the continuation.  **Pallure to reply within the set or extended period for reply with, by statute, cause the application to become ABANDONED (35 U.S.C, § 133).  **Ary tepty monate by the Political above, the maximum statutory praid and application to become ABANDONED.  **Pallure to reply application is condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <code>Ex parte Quayle</code> , 1935 C.D. 11, 453 O.G. 213.  **Disposition of Claims**  4) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <code>Ex parte Quayle</code> , 1935 C.D. 11, 453 O.G. 213.  **Disposition of Claims**  4) Claim(s) 1-35 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  5) Claim(s) is/are allowed.  5) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  7) Claim(s) is/are allowed.  8) Claim(s) 1-35 are subjected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  Application proposed drawings are required in reply to this Office action.  11) The proposed drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a) (d) or (f).  a) The translation of the priority documents have been received in A	Period for Reply							
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	Attachment	(s)						
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6) Other:	2) 🔲 Notice	of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Informal Page 1					

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## Election/Restriction

Species Restriction to one of the following inventions is required under 35 U.S.C. 121:

The presently pending claims are generic to a plurality of disclosed patentably distinct species comprising:

- A specific species of a combination of a tissue submucosa as set forth in claims 3 and 4;
- A specific species a radiopaque marker as recited in claims 6 and 9, for example;
- A specific species of a combination of the features of the biomaterial (10) as set forth in claims 15 and 16, or in claims 27 and 28, for example;

Applicant is further required under 35 U.S.C. 121 to elect a single disclosed species from the respective claims as listed and cited above, even though this requirement is traversed. The combined features of the sources of the tissue submucosa such as a combination of alimentary/bovine, alimentary/porcine, or genital/bovine, for example, are distinct structurally and would not necessarily overlap with one another when a prior art search is conducted. Likewise, each species of a radiopaque marker is structurally distinct and a search of all listed ones and/or combination(s) of such together with other members and/or combination(s) of other Markush Groups would be unduly burdensome to the examiner.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

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showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Because these species are structurally distinct, and because a search of one does not necessarily overlap with that of an another species, it would be unduly burdensome for the examiner to search and/or consider patentability of all of the claims as presently pending.

Applicant is advised that the response to this requirement to be complete must include an species election of the invention to be examined even though the requirement be traversed.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Dave Nguyen* whose telephone number is **(703) 305-2024**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Deborah Reynoles*, may be reached at **(703) 305-4051**.

Any inquiry of a general nature or relating to the status of this application should be directed to the *Group receptionist* whose telephone number is **(703) 308-0196**.

Dave Nguyen
Primary Examiner

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DAVET. NGUYEN PRIMARY EXAMINER